

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

LORI PALUSZEK AND	:	CIVIL ACTION
ROBERT PALUSZEK, her spouse,	:	
	:	
Plaintiffs,	:	
	:	
vs.	:	
	:	
DAL-TILE CORPORATION, JOHN	:	
DOES 1-10 (FICTITIOUS NAMES	:	
REPRESENTING UNKNOWN	:	
INDIVIDUALS) AND/OR XYZ	:	
CORPS. 1-10 (FICTITIOUS NAMES	:	
REPRESENTING UNKNOWN	:	
CORPORATIONS, PARTNERSHIPS	:	
AND/OR LIMITED LIABILITY	:	
COMPANIES OR OTHER TYPES OF	:	
LEGAL ENTITIES)	:	
	:	
Defendants.	:	

Pursuant to 28 U.S.C. §§ 1441(a) and 1446, Defendant, Dal-Tile, LLC (incorrectly identified as Dal-Tile Corporation), hereby gives notice of removal of this action from the Superior Court of New Jersey, Law Division, Bergen County, Docket No. BER-L-003059-22 to the United States District Court for the District of New Jersey, and in support thereof avers as follows:

1. This matter was initiated on June 6, 2022 via the filing of a Complaint in the Superior Court of New Jersey, Law Division, Bergen County. **(A true and correct copy of Plaintiff’s Complaint is attached hereto as Exhibit “A”).**

2. Service of the Plaintiff's Complaint was made upon the Defendant on or about June 27, 2022 via personal service.

3. According to the Complaint, this action was commenced by Plaintiffs, Lori Paluszek and Robert Paluszek, who reside at 2150 Center Avenue, Fort Lee, New Jersey, 07024. See Exhibit A.

4. Defendant, Dal-Tile, LLC, was incorrectly identified as Dal-Tile Corporation in the Complaint.

5. Defendant, Dal-Tile, LLC, is a Pennsylvania entity, and has its principal place of business in Pennsylvania. **(A true and correct copy of the Pennsylvania Secretary of State confirmation of Dal-Tile, LLC as a Pennsylvania entity is attached hereto as Exhibit "B").**

6. Plaintiff, Lori Paluszek, claims severe personal injuries injury caused by the "defective and unreasonably dangerous nature" of a product made by Defendant. See Exhibit A, ¶ 11.

7. Specifically, Plaintiff claims that the product unexpectedly broke apart and caused tiles to fall on Plaintiff's right foot causing Plaintiff, Lori Paluszek, to sustain severe personal injuries, including physical pain and mental anguish in the past present and future; disfigurement in the past, present, and future; physical impairment in the past, present, and future; past, present, and

future impairment of activities of daily living; and medical expenses in the past, present, and future. See Exhibit A, ¶¶ 5, 11.

8. Plaintiffs' Complaint includes the following causes of action: products liability, strict liability, breach of warranty, common law fraud, and negligence. Plaintiff-husband, Robert Paluszek, has also brought a loss of consortium claim. See Exhibit A.

9. Plaintiffs are seeking actual damages, compensatory damages, punitive damages, pre-judgment and post-judgment interest, counsel fees, and costs of suit. See Exhibit A.

10. If a defendant seeks to remove a pending state court action to federal court, it "shall file in the district court of the United States for the district and division within which such action is pending a notice of removal . . ." 28 U.S.C. §1446(a).

11. The notice of removal "shall be filed within thirty days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting for the claim for relief upon which such action or proceeding is based . . ." 28 U.S.C. §1446(b).

12. Pursuant to federal law, this Court "shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between – (1) citizens of different

states; [and] (2) citizens of a State and citizens or subjects of a foreign state . . .” 28 U.S.C. §1332(a)(1)-(2).

13. In this case, there is complete diversity of citizenship between the parties, as the Plaintiffs are citizens of the State of New Jersey and the Defendant is a corporation of the Commonwealth of Pennsylvania.

14. As Plaintiffs are alleging unspecified injuries, the amount in controversy, upon information and belief, is in excess of the federal jurisdictional limits.

15. Based on the averments in the Complaint and the damages alleged, it is reasonable to conclude that the damages sought in this matter are in excess of \$75,000.00, exclusive of interest and costs.

16. Therefore, this Court has original jurisdiction over the action pursuant to 28 U.S.C. §1332.

17. This action is properly and timely removed pursuant to 28 U.S.C. §1441(a) and in accordance with the requirements of 28 U.S.C. §1446.

18. This notice of removal is being filed within thirty days after receipt of the Complaint and with information and belief that the amount in controversy exceeds \$75,000, thereby fulfilling the requirements for invoking the diversity jurisdiction of this Court. 28 U.S.C. §1446(b).

19. Pursuant to 28 U.S.C. §1446(a), Defendant has attached hereto all process, pleadings and orders that have been filed, served or received in this action.

20. Pursuant to 28 U.S.C. §1446(d), written notice of the removal of this case, together with a copy of this Notice shall be filed with the Superior Court of New Jersey, Law Division, Bergen County and shall be served upon Plaintiffs.

21. By filing of this Notice of Removal, Defendant does not waive and hereby reserves any right to assert objections and defenses relating to service of process and venue.

WHEREFORE, Petitioner/Defendant, Dal-Tile, LLC (incorrectly identified as Dal-Tile Corporation), hereby removes the above action now pending in the Superior Court of New Jersey, Law Division, Bergen County, to the United States District Court for the District of New Jersey.

**WEBER GALLAGHER SIMPSON
STAPLETON FIRES & NEWBY,
LLP**

By: /s/ *Matthew G. Laver*
Matthew G. Laver, Esquire
Attorney for Defendant
Dal-Tile, LLC

Date: 7/26/2022

CERTIFICATE OF SERVICE

I, Matthew G. Laver, Esquire, hereby certify that on this 26th day of July 2022, I served the foregoing Notice of Removal, via electronic notice from the Court on the following:

Robert H. Baumgarten, Esq.
Davis, Saperstein & Salomon, P.C.
375 Cedar Lane
Teaneck, NJ 07666-3433
Attorney for Plaintiffs
Lori Paluszek and Robert Paluszek, her spouse

**WEBER GALLAGHER SIMPSON
STAPLETON FIRES & NEWBY,
LLP**

By: /s/ *Matthew G. Laver*
Matthew G. Laver, Esquire
Attorney for Defendant
Dal-Tile, LLC

Date: 7/26/2022